UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

J. Blazek SKLO Podebrady s.r.o. and Mr. Dalibor Blazek,	Case Number:
Plaintiffs, v.))) JURY TRIAL DEMANDED
Burton International Enterprises and Monika-Burton d/b/a Burton International Enterprises,)
Defendants.)

COMPLAINT

Come now the Plaintiffs, J. Blazek SKLO Podebrady s.r.o. and Mr. Dalibor Blazek, for their Complaint against Defendants, Burton International Enterprises and Monika Burton d/b/a Burton International Enterprises, state and allege as follows:

THE PARTIES

- Plaintiff J. Blazek SKLO Podebrady s.r.o. ("J. Blazek") is a business entity of the Czech Republic having a principal place of business at Olbrachtova 600, 290 01 Podebrady, Czech Republic.
- Plaintiff Dalibor Blazek, is an individual with the legal address of Olbrachtova
 200, 290 01 Podebrady, Czech Republic.
- 3. Upon information and belief, Defendant Burton International Enterprises ("Burton International"), is a business entity incorporated under the laws of Canada, having a principal place of business at #326, 125A-1030 Denman Street, Vancouver, BC V6G 2M6.
- Upon information and belief, Defendant Monika Burton ("Burton") is the
 president of Burton International and an individual residing at #326, 125A-1030 Denman Street,

JURISDICTION

- 5. This is an action for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271 and 282-85.
- 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332 and 1338(a).
- 7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendants have engaged in the distribution, offer for sale, or both, of products embodying the inventions of United States Patent Nos. 6,488,034 and 6,694,988 in this judicial district and throughout the United States.

BACKGROUND

- J. Blazek is engaged in the business of making and selling glass nail files to customers around the world in numerous shapes and sizes.
- 9. On December 3, 2002, United States Patent No. 6,488,034 ("the '034 patent") entitled FILE, PARTICULARLY NAIL FILE, was duly and legally issued by the United States Patent and Trademark Office ("USPTO"). (Exhibit A.) Mr. Dalibor Blazek is the owner of all right, title, and interest in the '034 patent. J. Blazek is the exclusive licensee of the '034 patent.
- 10. On February 24, 2004, United States Patent No. 6,694,988 ("the '988 patent") entitled FILE, PARTICULARLY NAIL FILE, was duly and legally issued by the USPTO. (Exhibit B.) Mr. Dalibor Blazek is the owner of all right, title, and interest in the '988 patent. J. Blazek is the exclusive licensee of the '988 patent.
- 11. Defendants are engaged, *inter alia*, in the business of making and/or selling glass nail files. Defendants have purposefully imported, sold and offered for sale such glass nail files throughout the United States.

- 12. Upon information and belief, Defendant Burton International is directly engaged in the sale of infringing products as alleged herein. Defendant Burton conducts business online at www.crystalfiles.com.
- 13. Defendant Burton uses the name Burton International as an alias to operate her business. Upon information and belief, Burton is an officer or principal of Burton International. Upon information and belief, Defendant Burton is directly engaged in the sale of infringing products as alleged herein.
- 14. Defendants Burton International and Burton were put on actual notice of their infringing activities on October 12, 2007, November 15, 2007, and April 3, 2008, via letter from Plaintiffs. Plaintiffs also mark their glass nail files with at least the '988 patent.
- 15. Plaintiffs have expended a substantial amount of money and effort in making and selling its patented glass nail files. Defendants' business of making and selling glass nail files is in violation of Plaintiffs' patent rights.

COUNT I - INFRINGEMENT OF U.S. PAT. NO. 6,488,034

- 16. Plaintiffs restate the allegations set forth in paragraphs 1-15 and incorporate them herein by reference.
- 17. By virtue of his ownership of the '034 patent, Plaintiff Mr. Dalibor Blazek maintains the right to sue thereon and the right to recover for infringement thereof.
- 18. As exclusive licensee of the '034 patent, Plaintiff J. Blazek maintains the right to sue thereon and the right to recover for infringement thereof.
- 19. On information and belief, Defendants have directly infringed, contributed to the infringement of, and/or induced infringement of the '034 patent through the manufacture, use, sale, offer for sale, and or importation of certain glass nail files.
 - 20. Upon information and belief, Defendants have had actual knowledge of the '034

patent and their infringement of this patent and has been and continues to be willful and deliberate.

- 21. Plaintiffs have been damaged by Defendants' infringement of the '034 patent and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing the '034 patent, contributing to the infringement of the '034 patent, and/or inducing the infringement of the '034 patent by others.
 - 22. Plaintiffs have satisfied the notice provisions of 35 U.S.C. § 287.

COUNT II – INFRINGEMENT OF U.S. PAT. NO. 6,694,988

- 23. Plaintiffs restate the allegations set forth in paragraphs 1-22 and incorporate them herein by reference.
- 24. By virtue of his ownership of the '988 patent, Plaintiff Mr. Dalibor Blazek maintains the right to sue thereon and the right to recover for infringement thereof.
- 25. As exclusive licensee of the '988 patent, Plaintiff J. Blazek maintains the right to sue thereon and the right to recover for infringement thereof.
- 26. On information and belief, Defendants have directly infringed, contributed to the infringement of, and/or induced infringement of the '988 patent through the manufacture, use, sale, offer for sale, and or importation of certain glass nail files.
- 27. Upon information and belief, Defendants have had actual knowledge of the '988 patent and their infringement of this patent and has been and continues to be willful and deliberate.
- 28. Plaintiffs have been damaged by Defendants' infringement of the '988 patent and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing the '988 patent, contributing to the infringement of the '988 patent, and/or inducing

the infringement of the '988 patent by others.

29. Plaintiffs have satisfied the notice provisions of 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment that:

- A. Defendants have directly infringed, contributorily infringed, and/or induced infringement of one or more claims of the '034 patent;
- B. Defendants have directly infringed, contributorily infringed, and/or induced infringement of one or more claims of the '988 patent;
 - C. Defendants have willfully infringed one or more claims of the '034 patent;
 - D. Defendants have willfully infringed one or more claims of the '988 patent;
- E. Defendants, their officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the '034 patent;
- F. Defendants, their officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the '988 patent;
- G. An accounting be had for the damages arising out of Defendants' infringement of the '034 patent, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;
- H. An accounting be had for the damages arising out of Defendants' infringement of the '988 patent, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;
 - I. Plaintiffs be awarded their attorneys' fees, costs, and expenses in this action; and
 - J. Plaintiffs be awarded such other and further relief as this Court may deem

necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all issues so triable.

Respectfully submitted,

J. BLAZEK SKLO PODEBRADY S.R.O. and MR. DALIBOR BLAZEK,

Plaintiffs ^

By its attorneys,

Dated: June 16, 2008 s/Heather J. Kliebenstein

Anthony R. Zeuli (MN # 274884) Thomas R. Johnson (MN # 242032) Heather J. Kliebenstein (MN # 337419) MERCHANT & GOULD P.C. 3200 IDS Center

80 South Eighth Street Minneapolis, MN 55402-2214 Telephone: (612) 332-5300

Facsimile: (612) 332-9081

Js 44 Case 0:08-cv-02354-RHK-JSM Document 1-2 Filed 06/18/2008 Page 1 of 1 (Rev. 03/99) CIVIL COVER SHEET

The JS-44 civil cover sheet and the Information contained herein neither replace nor supplement the filling and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket

sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM).						
I (a) PLAINTIFFS			DEFENDANTS	DEFENDANTS		
J. Blazek SKLO Podebrady s.r.o. and Mr. Dalibor Blazek				Burton International Enterprises and Monika Burton d/b/a Burton International Enterprises		
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF			COUNTY OF RESIDENC	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT		
(EXCEPT IN U.S. PLAINTIFF CASES)			(IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED			
(C) ATTORNEYS (FIRM, NAME, ADDRESS, AND TELEPHONE NUMBER) Anthony R. Zeuli Heather J. Kliebenstein Merchant & Gould, P.C. 80 South Eighth St., Suite 3200			ATTORNEYS (IF KNOWN)			
-Minneapolis, MN-55402						
Tele: 612.332.5300 Fax: 612.332.9081						
II. BASIS OF JURISD	ICTION (PLAC	CE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF	PRINCIPAL PART	IES (PLACE AN X IN ONE BOX	
☐ 1 U.S. Government Plaintiff	☑ 3 Federal Question (U.S. Government Not a Party)		(For Diversity Cases Only) PTF Citizen of This State	DEF	IFF AND ONE BOX FOR DEFENDANT) PTF DEF ipal Place 4 4 4	
☐2 U.S. Government	☐4 Diversity		Citizen of Another State 2	of Business in This 2 Incorporated and Pri	State ncipal Place ☐ 5 ☐ 5	
Defendant	(Indicate Citi: Parties in It		Citizen or Subject of a 🛛 3	of Business in Anot		
		·	Foreign Country	2 o rorongii kuudii	2000	
IV. NATURE OF SUIT	(PLACE AN x IN ONE BO	OV ONE VI				
CONTRACT		RTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATIDIES	
110 Insurance	PERSONAL INJURY 310 Airplane	PERSONAL INJURY 362 Personal Injury	610 Agriculture	422 Appeal 28 USC 158	400 State Reappointment	
130 Marine	315 Airplane Product	Med Matpractice	620 Other Food & Drug 625 Drug Related Seizure of	423 Withdrawal	410 Antitrust	
140 Negotiable Instrument 150 Recovery of Overpayment	Liabitity 320 Assault, Libel &	365 Personal Injury - Product Liability	Property 21 USC 881	28 USC 157	430 Banks and Banking 450 Commerce/ICC Rates/etc.	
& Enforcement of Judgment	Slander 330 Federal Employers*	368 Asbestos Personal Injury Product	☐640 R.R. & Truck	PROPERTY RIGHTS	460 Deportation	
151 Medicare Act	Liability 340 Marine	Liability	☐ 650 Airline Regs ☐ 660 Occupational	820 Copyrights 830 Patent	470 Rackeleer Influenced and Corrupt Organizations	
152 Recovery of Defaulted Student Loans (Excl. Veterans)	345 Marine Product	PERSONAL PROPERTY		840 Trademark	810 Selective Service	
153 Recovery of Overpayment	Liability 350 Motor Vehicle	370 Other Fraud 371 Truth in Lending	LABOR	SOCIAL SECURITY	Exchange 875 Customer Challenge	
of Veteran's Benefits 160 Stockholders' Suits	355 Motor Vehicle Product Liability	380 Other Personal Property Carnage	710 Fair Labor Standards	■861 HIA (1395ff)	12 USC 3410	
190 Other Contract 195 Contract Product Liability	360 Other Personal Injury	385 Property Camage Product Liability	Act 720 Labor/Mgml.	862 Black Lung (923) 863 DIWC/DIWW (405(g))	891 Agricultural Acts 892 Economic Stabilization	
195 Contract Product Clability		Product Liability	Relations 730 Labor/Mgml.	■864 SSID Title XVI	Act B93 Environmental Matters	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	Reporting A	EDERAL TAX SUITS	894 Energy Allocation Act	
210 Land Condemnation	441 Voting	510 Motions to vacate Septence	740 Railway Labor	870 Taxes (U.S. Plaintiff	895 Freedom of	
230 Foreclosure 230 Rent Lease & Ejectment	442 Employment 443 Housing/	HABEAS CORPUS:	790 Other Labor	☐871 IRS - Third Party	900 Appeal of Fee	
240 Toris to Land	Accommodations 444 Welfare	530 General 535 Death Penalty	Litigation 791 Empl. Ret, Inc.	26 USC 7609	Determination Under Equal Access to	
245 Torl Product Liability 290 All Other Real Property	440 Other Civil Rights	540 Mandamus & Other			Justice 950 Constitutionality of	
		550 Civil Rights 555 Prison Condition			State Statutes State Statutes Other Statutory	
V. ORIGIN		(PLACE AN x IN ONE I	BOX ONLY)	1	Appeal to District	
☑ 1 Original ☐ 2 Removed from ☐ 3 Remanded from ☐ 4 Reinstated or ☐ 5 another district ☐ 6 Multidistrict Magistrate Proceeding State Court Appellate Court Reopened (specify) Litigation Judgment						
VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.						
DO NOT CITE JURISDUCTIONAL STATUTES UNLESS DIVERSITY.) This is an action for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271 and 282-85.						
VII. REQUESTED IN COMPLAINT:			DEMAND \$	\$ Check YES only if demanded in Complaint: JURY DEMAND:		
VIII. RELATED CASE(S) (See instructions): IF ANY JUDGE						
DATE SIGNATURE OF ATTORNEY OF RECORD						
June 16, 2008 s/Heather J. Kliebenstein FOR OFFICE USE ONLY						
RECEIPT #	AMOUNT	APPLYING IFP_	JUDGE	MAG. JUI	DGE	